(1) 95-2045

Supreme Court, U.S.
FILED
JUN 11 1996
CLERK

NO. _____

SUPRME COURT OF THE UNITED STATES

IN THE PETITION OF SALVATORE MORETTI

PETITION FOR WRIT OF MANDAMUS

SALVATORE MORETTI.
Petitioner

- v. -

EUGENE H. AUSTIN.
Respondent

Salvatore Moretti
390 Park Street
Hackensack. New Jersey 07601

95 PT

QUESTIONS PRESENTED FOR REVIEW

1. Have the civil rights granted petitioner under 42 U.S.C. Section 1983 [Judge H.A. Ackerman et al. of the U. S. District Court having dismissed all petitioner's complaints for five years) been abridged by the acts of the respondent in granting summary judgment dismissing the case against the Hackensack Police Department when the City of Hackensack supports the police force's summary eviction of petitioner from his home at 390 Park Street, Hackensack, and incarceration in the Bergen County Jail Annex?
2. Can Respondent Eugene H. Austin who presided over the proceeding to remove Freeman grant authority to the police to arrest petitioner and remove him from his home and place petitioner in jail, when the summary dispossess statute in New Jersey does not confer jurisdiction on the Special Civil Part to act in matters of single family owner-occupied homes renting to two or fewer tenants, when the house suffered a mysterious fire and two adjoining homes burned down?
3. Can the Respondent Eugene H. Austin rely upon New Jersey's Tort Claims Act notice provision in dismissing the case before him against the Hackensack Police Department and the City of Hackensack when the Civil rights laws protect petitioner within his home from acts without basis in law or reason, even though numerous condos on the block have been sold by the Sheriff at tax sales?
4. Can the actions by Judge Austin in failing to observe the leasehold obligations of renters be interpreted as anything but a civil disability overly broad in its scope?

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STATEMENT OF BASIS FOR JURISDICTION

The jurisdiction of the United States Supreme Court to grant this writ is founded on 28 U. S. C Section 1651 (a). Petitioner contends that the dismissal of his action against the Hackensack Police department amounts to a judicial usurpation of power. First, the Special Civil part has the jurisdiction to hear summary dispossess cases involving housing, with the exception of single family owner occupied housing rented to two or fewer tenants. Petitioner occupies a single family house located at 390 Park Street, Hackensack, New Jersey. Second, the Honorable Eugene H. Austin was advised at the motion hearing brought by the City of Hackensack on behalf of the Hackensack Police Department that the petitioner was summarily evicted from his home at 390 Park Street and incarcerated at the Bergen County jail annex in violation of his civil rights. Third, when the same fact pattern emerged at trial involving a Bernard Fayehun who also fell five weeks behind in his rent for Room No. 1, the presiding judge of Special Civil Part (the Honorable Ellen Koblitz) . had petitioner removed by the security guards out of court. Upon appeal to the United States Supreme Court, the petition for certiorari was denied. As shown by the facts within, the same fact pattern has repeated itself, and is capable of endless repetitions in the future.

Unless the actions of the defendant Hackensack police department and the City of Hackensack are bounded by law, petitioner cannot operate his rental business, which encompasses an apartment house at 391-397 Park Street,

Hackensack, for which properties he is taxes over $30,000 per year on an assessed value in excess of $950,000.

Petitioner has filed suit in the United States District Court in Newark, New Jersey, filing claim against the City of Hackensack in one suit, and the State of New Jersey in another suit, and both suits were dismissed by the trial court without opportunity to try the cause of action, both suits were appealed to the United States Court of Appeals for the Third Circuit, and thereafter to the United States Supreme Court, with the result that both petitions for certiorari were denied by the high court. In addition, petitioner sought rehearing before the United State Court of Appeals for the third circuit upon the basis of new facts, and that suit was also dismissed. Further appeal is not possible in these causes of action.

As noted in Richard A. Given's Manual of Federal Practice, 1995 (pub. Shepard's/ McGraw-Hill, Inc.), at p. 651, "to obtain mandamus the applicant must show '(a) some special risk of irreparable harm, and (b) clear entitlement to the relief requested. In re Benedictin Products Liablity Litigation, 859 F. 2d 1000, 1005 (2d Cir. 1988). The irreparable harm requirement includes a subelement that no other avenue for relief be available. Id.

Petitioner applies for a writ of mandamus directed to Honorable Eugene H. Austin, Superior Court Judge of New jersey, requiring that he conduct a trial of the Hackensack Police Deparment and the City of Hackensack in the ejectment of petitioner from his home at 390 Park Street, Hackensack, N. J. and incarceration in jail.

The order dismissing the cause of action resulted when Hon. Eugene Austin granted the motion for summary

judgment on behalf of the defendant Hackensack Police Department. Richard Salkin, Esq. representing the City of Hackensack, claimed that the City of Hackensack should be pleaded as the defendant rather than the Hackensack Police Department, and Salkin filed a motion for summary judgment dismissing the cause of action as to the Hackensack Police Department and the City of Hackensack. Mr. Salkin's proposed order for summary judgment set forth as part of the appendix, as well as the copy of the jacket of the file.

The court below had jurisdiction of this suit for a clear violation of petitioner's civil rights - he was forcibly ejected from his home at 390 Park Street, Hackensack, New Jersey by the Hackensack Police Department, which chose to place in his home a Beverly Freeman, who in fact was indicted by the Bergen County Grand jury and has not been subject of service since she is a fugitive from justice.

ARGUMENT

MANDAMUS SHOUD BE GRANTED BY THE UNITED STATES SUPREME COURT SINCE THE FEDERAL DISTRICT COURT AND THE U. S COURT OF APPEALS HAVE REFUSED TO TAKE JURISDICTION AND THE FAILURE TO ALLOW PETITIONER TO ENTER INTO CONTRACTUAL AGREEMENTS WITH TENANTS THREATEN HIS REAL PROPERTY INTERESTS ASSESSED OVER ONE MILLION DOLLARS.

Mandamus should be granted to petitioner in that trial judge Eugene Austin's summary dismissal of his complaint alleging failure to provide police services at petitioner's offices threaten petitioner's solvency. Those offices have been located at 390 Park Street, Hackensack, New Jersey for fifteen years.

Petition alleges redlining in this Central Business District (the capital city of Bergen County) neighborhood is evident. Petitioner has been refused loans, and those loans in effect have been accelerated, while tenants cause building damage, seeking relief from moderate rentals.

The 390 Park Street, Hackensack offices were affected by a severe fire, which has occurred in two other adjacent houses, resulting in one demolition thus far. Numerous condominiums and homes have been sold by the Sheriff of Bergen County, The municipal police department enforce the laws as they are required, which under the circumstances noted constitute a

series of unconstitutional acts.

When petitioner sought loans from Citibank, he was instead robbed of over $7,000 in cash in broad daylight. Appeal to the courts for assistance have repeatedly been turned down, There has resulted emergencies more fully set forth in petitioner's 950 page tax court appeal (such as water shut-offs) with which the United States Supreme Court is well informed.

Judge Austin's dismissal of the case against Freeman and the Hackensack police department prevent even an initial hearing from which appeal may be taken - there has been no discovery allowed in either the municipal or state court. Waiting six months as requested by the municipal attorney would postdate an possible resolution when so local bankruptcies have occurred due to crowding, and the windfall profits experienced as the state makes way for the expansion of the county jail facility several blocks away.

In reading both Mr. Salkin's motion to dismiss and Citibank's motion to dismiss, one is struck by the similarity of the corporate intransigence - this haughtiness exults in ad hominem attacks upon petitioner.

Petitioner was illegally arrested in his own home, and held without opportunity to consult with legal counsel. He was segregated from the rest of the jail population, and prevented from sing the telephone. The jail population was composed of predominatly minority groups - at least 85% black, and 10% Hispanic. Petitioner's address of such matters to the county and state authorities has produced no relief at all. The counsel for Citibank suggests therefore that petitioner's petitions for

certiorari are without foundation. Citibank does not reveal that over 95% of the petitions for certiorari are denied, and that the United States Supreme Court's review is discretionary - being based upon the national import of the causes of action alleged.

Petitioner's appeal to Judge Harold Ackerman has occurred over a period of five year. and within the past month the federal court of appeals decided that their continuing review of the matter should end. thereby necessitating appeal to the U.S.. Supreme Court.

The delaying tactics by Judge Austin, the Hackensack Police Department, and Freeman (who appears to have evaded service due to her status as a fugitive), should not prevent the high court's review since the issues are of national import.

Operating efficiencies have been caused by paying a $30,000 water bill, and municipal taxes based upon 300% assessment increases. Tenant turn over is high. As Presiding Judge in Special Civil Part Judge Eugene Austin hears cases involving Hispanic tenants who regard their English language leases as avoidable. Such tenants come to court with the assistance of interpreters. who are well prepared in advance for confrontations with the court system.

Federal trial judge Harold Ackerman's law. review in vol. 44 of the Rutgers law review at p. 135, portion of which are attached hereto, describe jail over-crowding. Petitioner has noted to Judge Eugene Austin that six people are housed in just a one bedroom apartment along with a barking dog, sink back-ups due to tenant mischief, and six foot high speakers

which blare eighteen hours per day, while the police do nothing. Food is unaffordable in the area, and with minimum wages for experienced personnel below $1 per hour, the inflationary spiral is devastating, driving up welfare costs. Reading Judge Ackerman's law review in this light, he should have taken jurisdiction when the identical complaints were urged before him, but he failed to do so and has persisted to this day.

In the case at bar, one is led to the conclusion that civil disabilities are being attached to long term residential apartment house ownership. These civil disabilities exist during the period of ownership/management. Petitions for redress of grievances are handled as was Frank di Chiaro's petition for a return of his $300, with claims that suit can wait until release. By delaying for decades, the municipal defendant and new residents can seek to advantage themselves, while long term property management is replaced by absentee management, more favorable to the defendants.

CONCLUSION

For the reasons set forth above, petitioner hereby applies for the grant of the mandamaus applied for, compelling Judge Eugene Austin of the Bergen County Special Civil Part - Superior Court of New Jersey hear the case before him involving the defendants Hackensack Police department and Beverly Freeman.

Date: May 31, 1996

Petitioner by: _____

SALVATORE MORETTI, PRO SE

ORDER FILED DISMISSING THE CASE AS TO HACKNENSACK POLICE DEPARTMENT. SALVATORE MORETTI V. BEVERLY FREEMAN, AND HACKENSACK POLICE DEPT., filed April 29, 1996.

RICHARD SALKIN, ESQ.
RONALD SCHWARTZ (CROSSED OUT)
50 MAIN STREET
HACKENSACK, N.J. 07601
(201) 3423626
ATTORNEY FOR Defendant
Hackensack Police Department

FILED APR, 29, 1996

SUPERIOR COURT OF NEW JERSEY

SALVATORE MORETTI, Plaintiff
vs.
BEVERLY FREEMAN, AND HACKENSACK POLICE DEPARTMENT, Defendants

Docket No. DC-2603-96

CIVIL ACTON
ORDER

THIS MATTER having been opened to the Court on the Motion of Richard E. Salkin, Esq. Attorney for the City of Hackensack (incorrectly designated as the Hackensack Police Department) on NOTICE TO Plaintiff and Co-Defendant, Beverly Freeman, and it appearing to the satisfaction of the Court that Plaintiff has failed to comply with the notice provisions of N.J.S.A. 59:1-1 et seq. ("The Tort Claims Act") and other good cause shown; it is on this 26th day of April 1996; **ORDERED** that the within Complaint is Dismissed without prejudice as to the Defendant, City of Hackensack.

(s) Eugene H. Austin J.S.C.

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414
Plaintiff Pro Se

SUPERIOR COURT OF N.J.
SALVATORE MORETTI: LAW DIVISION:
PLAINITIFF : BERGEN COUNTY
vs. : SPECIAL CIVIL PART
: DOCKET NO.
BEVERLY FREEMAN, :
DEFENDANT: ORDER TO SHOW CAUSE
:. FOR THE REMOVAL OF
BEFVERLY FREEMAN
FROM 390 PARK STREET, HACKENSACK

On the 21st day of September, 1995, upon notice to Beverly Freeman, residing at 390 Park Street, Hackensack, New Jersey, and upon the appearance of Salvatore Moretti, the owner of 390 Park Street, Hackensack, the Hon. Eugene H. Austin conducted a hearing relating to the allegations that Beverly Freeman was residing at 390 Park Street, Hackensack, a single family house, and upon consideration of the certification of Salvatore Moretti dated September 20, 1995, found the following:

~~That a copy of this notice of hearing was served upon Beverly Freeman on September 21, 1995.~~

That Beverly Freeman was residing at 390 Park Street illegally and therefore should be removed from that housing forthwith. And Further that: Defendant show cause why tenant shall not be removed from premises on 9-28-95 at 2:30 p.m. before the Hon. Eugene H. Austin. Tenant shall be served

a copy of the within order within 3 days.

(s) Eugene H. Austin J.S.C.

Filed Sept. 21. 1995. Bergen County Special Civil Part

SALVATORE MORETTI. PETITIONER PRO SE
390 PARK STREET
HACKENSACK. NEW JERSEY 07601
(201) 646-1414

	U.S. SUPREME COURT
SALVATORE MORETTI, :	WASHINGTON, D. C.
Petitioner :	
- vs. - :	Docket No. 95-5843
EUGENE H. AUSTIN, :	APPLICATION FOR
Respondent :	WRIT OF MANDAMUS
:	

BE HEREBY ADVISED THAT SALVATORE MORETTI APPLIES TO THE UNITED STATES SUPREME COURT for an Order compelling Eugene H.. Austin. Presiding Judge of the Special Civil Part of the Superior Court, Law Division, in Hackensack, New Jersey for the relief prayed for in the civil action filed in the Special Civil Part, Superior Court, Law Division, Hackensack, New Jersey captioned Salvatore Moretti v. Beverly Freeman and Hackensack Police Department docketed in the Special Civil Part as docket No. DC-2603-96 This application is for relief from the Judgment dated April 26, 1996. dismissing petitioner's complaint as to the defendant Hackensack Police Department [City of Hackensack] (Beverly Freeman remaining a fugitive from justice and not susceptible to service by this plaintiff. The order in the case of Moretti v. Freeman and Hackensack Police Dept. has been retained as part of the files of the Special Court Part Court, not being reduced to a written order. The defendants in the case of Salvatore Moretti v. Beverly Freeman and City of Hackensack are hereby advised

of the application for a writ of mandamus. pursuant to United States Supreme Rule 21.

Date: May 20. 1996

Petitioner:_____
SALVATORE MORETTI. PRO SE

SALVATORE MORETTI, PETITIONER PRO SE
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414

	U.S. SUPREME COURT
SALVATORE MORETTI, Petitioner	WASHINGTON, D. C.
- vs. -	Docket No. 95-1587
EUGENE J. AUSTIN, Respondent	CERTIFICATION IN SUPPORT OF APPLICATION FOR WRIT OF MANDAMUS

SALVATORE MORETTI, PLAINTIFF IN THE ABOVE CAPTIONED CIVIL ACTION, by way of certification, hereby under oath declares as follows:

1. I am the plaintiff in the above civil action, and am fully familiar with the facts in the abovef case.

2. On April 26, 1996, the Hon. Eugene H. Austin, Presiding Judge of the Special Civil Part of the Superior Court of the Law Division, Bergen County, New Jersey presided over a motion hearing for summary judgment brought by the the Hackensack police department, also characterized as the City of Hackensack. The motion was for summary judgment to be granted dismissing the cause of action as to the defendant City of Hackensack (denoted as the Hackensack Police Department in the caption).

3. On April 26, 1996, I testified that I had been evicted from my office at 390 Park Street, Hackensack, by the defendant Hackensack Police Department on the complaint of the

defendant Beverly Freeman. Freeman had just returned from jail on September 6, 1996. She had been arrested on August 30, 1995 and had been indicted by the Bergen County grand jury.

4. Freeman's reputation for veracity in the community was in question in that she had been convicted in 1995 by the Hackensack Municipal Court for uttering fictitious reports to authorities [Complaint against Beverly Freeman - uttering fictitious reports. N.J.S. 2C:28-4b, Fictitious reports to law enforcement authorities, Commission of Offense in Hackensack - stated car was stolen, Dec. 7, 1984. Hackensack Municipal Court Judge Dinice held trial on Jan. 25, 1995, sentenced to 30 days.]

5. Freeman stopped paying room rent to me at 390 Park Street, Hackensack on August 11, 1995, falling five weeks behind in her rent. After she returned from jail on September 6, 1995, she called the police at least nine times. As I stated in my certification dated September 20, 1995, "Freeman has placed glue in my keyways, preventing my entering my own home, where I am an owner occupant renting to 2 or fewer tenants (and hence exempt under N. J. Stat 2A:18-61.1 et seq.). My revised demand for discovery filed September 16, 1995 with the municipal court and prosecutor (annexed hereto) proves Freeman has a long criminal record, spanning 2

CERTIFICATION IN SUPPORT OF MANDAMUS TO REQUIRE THAT EEUGENE H. AUSTIN HEAR CASE OF MORETTI V. BEVERLY FREEMAN AND CITY OF HACKENSACK.. P. 3

decades... (her arrest for Violation of Probation was due to not reporting her whereabouts to probation). Freeman's alarming conduct requires that she be removed immediately from 390 Park Street, Hackensack, Room No. 1, second floor, where she lives without lease." The police not only assisted Freeman in filing complaints, they arrested me on September 11, 1995, and jailed me in the Bergen County jail until September 14, 1995.

6. When acting Hackensack municipal court judge Theodore Takvorian heard the municipal complaint filed by Freeman against me on December 4, 1995 he dismissed the complaint due to insufficient evidence.

7. I have owned the single family house at 390 Park Street, Hackensack since 1980; the deed is dated September 30, 1980 and has been recorded in the Bergen county deed vault since 1980. Nevertheless, the Hackensack police department arrested me and incarcerated me in the Bergen County Jail Annex after I had been prevented from entering my house by police personnel dispatched to that address. Freeman changed my front door lock. My rear door lock had glue placed in it. The lock entering into my office had a key placed in the lock, which was then broken in the lock with glue placed in the lock over the broken key.

8. After the municipal court dismissed the case against me, I filed suit in the Special Civil Part in January 1996,

CERTIFICATION IN SUPPORT OF MANDAMUS TO REQUIRE THAT EEUGENE H. AUSTIN HEAR CASE OF MORETTI V. BEVERLY FREEMAN AND CITY OF HACKENSACK., P. 4

SALVATORE MORETTI V. BEVERLY FREEMAN AND HACKENSACK POLICE DEPARTMENT. Docket no. DC-2603-96. alleging that the defendant had deprived me of my ownership rights of 390 Park Street, Hackensack, New Jersey.

9. Judge Eugene H. Austin dismissed due to my alleged failure to notify the defendant City of Hackensack as required under the New Jersey Tort Claims Act, despite my notifications dated September 8, 1995 and September 10, 1995 directed to the Hackensack Municipal Court.

10. My petition for certiorari filed with the United States Supreme Court has been supplemented by a complaint filed with the New Jersey Tax Court docket No. 9479-95 which sought a tax reduction on property located at 391-397 Park Street, Hackensack (a twenty unit residential apartment building) as well as 390 park Street, Hackensack (zoned a single family house). The reason for the tax reduction is that the over-assessment amounts to inverse condemnation, exemplified by the facts set forth herein - I have been prevented from entering my own office at 390 Park Street, Hackensack where my legal files are kept.

11. The foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: May 20, 1996

Submitted by: (s) Salvatore Moretti, Pro Se

SALVATORE MORETTI, PETITIONER PRO SE
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414

	UNITED STATES
SALVATORE MORETTI,	: SUPREME COURT
Petitioner	: WASHINGTON: D.C.
- vs.-	: DOCKET NO. 95-5843
EUGENE J. AUSTIN,	:
Respondent	: PROOF OF SERVICE

SALVATORE MORETTI, PLAINTIFF IN THE ABOVE CAPTIONED CIVIL ACTION, by way of certification, hereby under oath declares as follows:

1. I am the plaintiff in the above civil action, and am fully familiar with the facts in the above case.

2. On May 20, 1996, I placed in the United States Mails in Hackensack, New Jersey postpaid letters containing the application for a mandamus in the case of Salvatore Moretti v. Eugene H. Austin. directed to the Clerk of the Supreme Court, as well as to the following:

a. Eugene H. Austin, Special Civil Part - Law Division, Superior Court of New Jersey, . Bergen County Justice Center, 10 Main Street, Hackensack, New Jersey 07601

b. Richard Salkin, Esq., 50 Main Street, Hackensack, New Jersey 07601

3. The foregoing statements are true. I am aware that if any of the foregoing statement made by me are willfully false, I am subject to punishment.

Date: May 20, 1996.

Submitted by: (s). Salvatore Moretti, Plaintiff Pro Se

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414

May 20, 1996

Office of the Clerk
United States Supreme Court
Supreme Court Building
1 First Street, N. E.
Washington, D.C. 20543

RE: MANDAMUS - SALVATORE MORETTI v. EUGENE H. AUSTIN , as to Salvatore Moretti v. Beverly Freeman and Hackensack Police Department, Special Civil Part of Bergen County Docket No. DC-2603-96; in re Salvatore Moretti v. City of Hackensack, Petition for Certiorari Docket No. 95-1587.

Dear Clerk of the Court:

Enclosed find petitioner's application for a writ of mandamus under United States Supreme Court Rule 21 in the above captioned matter. Also enclosed find the fee of $100.00.

The mandamus seeks to require Judge Eugene H. Austin of the Superior Court of New Jersey, Law Division, Special Civil Part, Hackensack, New Jersey to act in the above captioned matter. The City of Hackensack represented by

MANDAMUS - SALVATORE MORETTI v. EUGENE H. AUSTIN . as to Salvatore Moretti v. Beverly Freeman and Hackensack Police Department, Special Civil Part of Bergen County Docket No. DC-2603-96; in re Salvatore Moretti v. City of Hackensack, Petition for Certiorari Docket No. 95 -587. PAGE 2

Rickard E. Salkin, Esq, 50 Main Street, Hackensack, N. J. 07601 [Tel. No. (201)342-366] insists that he represents the defendant ("I represent the City of Hackensack - incorrectly designated as the Hackensack Police Department - with respect to the above captioned - Salvatore Moretti v. Beverly Freeman and Hackensack Police Department.")

When this case was before Judge Eugene H. Austin, he dismissed the case due to failure to comply with the notice provision contained in the New Jersey Tort Claims Act, not recognizing that the case was pending in the United States Supreme Court. The case not only complied with the notice provision of the New Jersey Tort Claims Act - I produced the notice sent to Hackensack) but the case had proceeded through the courts after numerous municipal and special civil part trials, and then to the New Jersey Tax Court, Docket No. 8336-93, then on appeal to the New Jersey Appellate Division, Docket No. A-4913-94, and then to the New Jersey Supreme Court, Docket No. 41,120, and finally to the United States Supreme Court, Docket No.95-1587. The enclosed petition has attached to it a certification upon which petitioner relies.

MANDAMUS - SALVATORE MORETTI v. EUGENE H. AUSTIN . as to Salvatore Moretti v. Beverly Freeman and Hackensack Police Department. Special Civil Part of Bergen County Docket No. DC-2603-96; in re Salvatore Moretti v. City of Hackensack. .Petition for Certiorari Docket No. 95 -1587. PAGE 3

By copy of this letter. I am delivering a copy of the mandamus to Judge Eugene H. Austin and to the attorney for the City of Hackensack, Rickard Salkin, Esq.

Very truly.

_____

Salvatore Moretti. Pro Se Plaintiff

enc. Check for $100

cc: Judge Eugene H. Austin

Ricahrd Salkin, Esq. (On Behalf of Hackensack Police Department. aka City of Hackensack)

SUPREME COURT OF THE UNTED STATES
OFFICE OF THE CLERK
WASHINGTON, D.C. 20543-0001

May 23, 1996

Salvatore Moretti
390 Park Street
Hackensack, New Jersey 07601

RE: Moretti v. Austin

Petitioner: Salvatore Moretti

The above entitled petition for an extraordinary writ of mandamus was received on May 23, 1996. The papers are returned for the following reason():

The petition does not show how the writ will be in aid of the Court's appellate jurisdiction, what exceptional circumstances warrant the exercise of the Court's discretionary powers, and why adequate relief cannot be obtained in any other form or from any other court. Rule 20.1.

You have not appended a copy of the judgment or order in respect of which the writ is sought. Rule 20.3 pertaining to petitions for writs of prohibition and mandamus.

No motion for leave to proceed in forma pauperis, signed by the petitioner or by counsel, is attached. Rules 33.2(a) and 39.

No notarized affidavit or declaration of indigency is attached. Rule 39. You may use the enclosed form.

No affidavit or declaration of service, specifying the names and addresses of those served, was received. Rule 29.5

The petition does not follow the form prescribed by Rule 14 as required by Rule 20.2.

A copy of the corrected petition must be served on opposing counsel.

Returned herewith, is your check in the amount of $100.00. If you are proceeding in forma pauperis, there is no filing fee. If you plan to file on the paid docket, the filing fee is $300.00, and you must follow the printing requirements pursuant to Rule 33.

SINCERELY
William K. Suter, Clerk
By: Troy D. Cahll
(202) 479-3044

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414

May 29, 1996

Supreme Court of the United States
Office of the Clerk
Washington, D. C. 20543-0001

Re: Petition for Extraordinary Writ, Writ of Mandamus.
Petitioner: Salvatore Moretti, Respondent: Eugene H. Austin

Dear Sirs:

Pursuant to your letter of May 23, 1996, I have corrected my petition for writ of mandamus in the above captioned matter, and am returning it to you for filing with the fee of $300.00, the amount required on the paid docket.

I have also attached the order appealed from. The respondent, Eugene H. Austin stated that the only order available is the jacket, and the photocopy of the jacket of the file is part of the submitted petition.

The writ of mandamus is printed in booklet format, as prescribed by Rule 33, as per your letter dated May 23, 1996.

Very truly,
(s) Salvatore Moretti
enc.

Salvatore Moretti
390 Park St.
Hackensack.N. J. 07601
(201) 646-1414
Plaintiff Pro Se

	SUPERIOR COURT OF N.J.
SALVATORE MORETTI. :	LAW DIV.:BERGEN CTY
Plaintiff :	SPECIAL CIVIL PART
vs. :	DOCKET NO. DC-2603-96
BEVERLY FREEMAN, :	CERTIFICATON IN
and HACKENSACK :	SUPPORT OF MOTION
POLICE DEPT.. :	FOR RECONSIDERATION
Defendants:	OF DISMISSAL DUE TO
:	FAILURE TO COMPLY WITH N.J. TORT CLAIMS ACT.

To: City of Hackensack, represented by
Richard Salkin, Esq.
50 Main Street
Hackensack. N J. 07601

To Beverly Freeman, whose only mail address known is her legal representation known as the
Public Defender's Office
60 State St.
Hackensack. N. J. 07601

Salvatore Moretti, plaintiff in the above captioned matter, hereby under oath declares as follows:

1. On April 26, 1996, I appeared before the motion to dismiss the complaint as to the City of Hackensack due to failure to

comply with the notice requirements provided by the New Jersey Tort Claims Act, N. J. Stat Ann. 59:1-1 et seq. The motion was presided over by Judge Eugene Austin in the Special Civil Part of the Superior Court.

2. I advised the court, the defense of failure to comply with the New Jersey Tort Claims Act was alleged by this defendant, City of Hackensack as long ago as in 1977, when Robert Holopigian, Esq. was my attorney. Since that date numerous cases have been filed and the City of Hackensack has been placed on continuous notice of the complaints by this plaintiff, Salvatore Moretti.

3. For example, I filed in the Chancery Court in Bergen County in the 1970's and filed in the Bergen County Tax Board, as well as the newly created N. J. Tax Court. I filed a legal malpractice case against Mr. Holopigian, who is now disbarred. I subsequently purchased 390 Park Street, Hackensack, and have owned the subject premises 15 years from which I was evicted on September 6, 1996 by the defendants, Beverly Freeman and the Hackensack Police Department.

4. Prior to this eviction, and placing the City of Hackensack on continuing notice I had filed an appeal from the high taxes plac2ed on my property encompassing 387, 390, 391, and 397 Park Street, Hackensack, New Jersey. Appeals were filed in the Bergen County Tax Board as Appeal No. 445, filed August 15, 1991, resulting in a slight reduction in taxes.

5. I perceived that the tax board was not able to consider matters such as those sub judice, so I filed in the U. S. District Court, which case was Salvatore Moretti v. Zisa, et al., Docket No. 92-4206 (HAA), said case filed under 42 U. S. C Section 1983, etc. The City of Hackensack was the

defendant along with its mayor. That case was appealed to the U. S. Court of Appeals, 93-5416, and thence to the U. S. Supreme Court, Case No. 93-1928.

6. I filed a Tax Appeal claiming discrimination in my tax assessments on properties located at 387-390-391-397 Park St., Hackensack, in the N.J. Tax Court because the opinion in 92-4206 (HAA) indicated I should file in the N. J. (State) Tax Court; that case was filed March 31, 1993 in the Tax Court and docketed as 8336-93. The City of Hackensack was the defendant. The case went up on appeal to the N. J. Appelate Division, docket no. A-4913-94; thereafter the case went up to the N. J. Supreme Court, Case no. 41,120. On April 1, 1996 the petition for writ of certiorari was filed in that case in the U. S. Supreme Court, docket no. 95-1587, where it is pending.

7. As to the case of Salvatore Moretti v. Beverly Freeman and the City of Hackensack, DC-2603-96, that case was filed in the Bergen County Special Civil Part on January 30, 1996. The motion for summary judgment based on failure to comply with the N. J. Tort Claims act was filed by the defendant City of Hackensack on March 25, 1996. The return date on that motion was April 26, 1996. At the hearing on that matter, for some reason, Mr. Richard Salkin, Esq. 50 Main St., Hackensack, N. J. appeared having submitted an order to dismiss on the letterhead of a Ronald Schwartz, Esq. 50 Man Street, Hackensack, N. J. who was not the attorney for the defendant and who did not file an answer on behalf of either Beverly Freeman or the City of Hackensack. Mr. Salkin had no explanation for this error which was comprehensible under the court rules.

8. Despite that fact, Mr. Salkin persisted, stating that the

defendant as a municipality of the State of New Jersey had no notice of the cause of action in this matter. In fact, I had kept the City apprised of the matters sub judice by filing a complaint in the New Jersey Tax Court on November 8, 1995, Docket No. 9479-95. Donald Lenner, Esq. handles the case for the City of Hackensack in that case, whom Mr. Salkin can contact to make himself aware of the specifics.

9. In addition, the City of Hackensack received notice of the matters in this case by letter of Sept. 8, 1996 (enclosed herewith marked as P-1 Id, April 26, 1996), and by letter of September 10, 1996 (P-2 Id, April 26, 1996). When I presented these two letters to Mr. Salkin on April 26, 1996 at the hearing on the motion his response was that he was under the impression that the cause of action within dated from my jailing by the Hackensack Police Department - that jailing was from Sept. 12, 1995 to Sept. 15, 1995 - and hence disregarded them.

10. Clearly the within cause of action goes back before that to the period when the defendant Beverly Freeman fell behind on her rent August 11, 1995. She claimed she was seeking another place to live when she was arrested at 3 p.m. on Aug. 30, 1995 and incarcerated in the Bergen County jail until Sept. 6, 1996. She was released by the magistrate in Hasbrouck Heights, N. J. on Sept. 6, 1995, returned to 390 Park Street, Hackensack, and immediately acted in concert with her co-defendant City of Hackensack by calling police headquarters a dozen times claiming I should be put in jail.

11. In fact Beverly Freeman filed a complaint (S913818) against me with the Hackensack Police Department claiming that on Sept. 8, 1995 "within the jurisdiction of this court (Hackensack municipal court) and with purpose to harass

Beverly Freeman by making communication by changing locks on her apartment and also stating he was going to get her in a manner likely to cause annoyance or alarm in violation of NJS 2C:33-4." Thereafter on Sept. 11, 1995 she signed a warrant for my arrest, W-162351, claiming within the jurisdiction of this court, with purpose to harass Beverly Freeman engage in a course of alarming conduct or of repeatedly commit acts done with the a purpose to alarm or annoy in violation of N.J.S. 2C:33-4C,".

12. As set forth above, it is clear that the cause of action which was before Judge Eugene Austin of the Bergen County Special Civil Part on Sept. 28, 1995 on Order to Show Cause was whether Beverly Freeman was in fact five weeks behind on her rent. She stated in court that she owed five weeks, and would not put up any money to pay the arrears on her rent. Thereafter, she was advised by Judge Austin that she would be required to leave the house (in which she occupied a room, not an apartment). She eventually left.

13. Prior to my incarceration, it was clear that Ms. Freeman was behind in her rent since Aug. 11, 1995, that she refused to leave, and was claiming that I should leave instead, calling the police, placing glue in my door lock, and lockng me out, as well as inviting in a man by the name of Julio, who she said was a member of a police force. This man stayed in her room since Aug. 11, 1995.

14. Apparently, Mr. Salkin never saw the letters which I have marked for purposes of identification by myself as P-1 Id and P-2 Id and attached hereto.

15. Based upon the foregoing, it is my contention that the

defendant City of Hackensack was on notice in the matter subjudice and within the notice requirement of the N. J. Tort Claims Act. Further, it is my contention that this case should not now be dismissed under the facts as set forth herein.

16. The foregoing facts are true. I am aware that if any of the foregong facts stated by myself are willfully false, I am subject to punishment.

Date: April 27, 1996

By: (s) Salvatore Moretti, Plaintiff Pro Se

SALVATORE MORETTI
390 PARK STREET
HACKENSACK. NEW JERSEY 07601
(201) 646-1414

September 8. 1995
Judge Harry W. Chandless. Jr.
Hasbrouck Heights Municipal Court
248 Hamilton Avenue
Hasbrouck Heights. New Jersey 07604
TELEFAX 288-6408

Holly Crimini
Bergen County Probation Department
133 River Street
Hackensack. New Jersey 07601
646-2121

Frederick Allen. Prosecutor
Hasbrouck Heights Municipal Court
248 Hamilton Avenue
Hasbrouck Heights. New Jersey 07604
TELEFAX 288-6408

Hackensack Municipal Court
215 State Street
Hackensack. New Jersey 07601
att: Violations Dept.
TELEFAX 646-0202
re: Beverly Freeman. N.J. v. Beverly Freeman. C-150-94;
Theft. N.J.S. 2C:20-9; N.J. S. 2C:20-4. Theft By Deception;

Bergen Cty Superior Court. N.J.S. 2C:28-4B. Uttering Fictitious Reports. etc.

Dear Sirs:

On August 30. 1995 at 3 p.m. Beverly Freeman was arrested by the Bergen County Sheriff's Department at 390 Park St., Hackensack. N. J.. I am the owner of 390 Park Street, Hackensack, which is a single family owner occupied house (renting to only one person - as such it does not fall within the summary dispossess statute of the state of N. J. which exempts owner occupied single family houses renting to two or fewer tenants). At the time of her arrest. Beverly Freeman was in the house (after having returned with her "boy-friend") only in order to move her few belonging out of the house. She does not pay rent.

Upon her arrest, she called me from the Bergen County jail annex several times and claimed that she was unfairly arrested, and her boyfriend claimed that she was entitled to free legal advise which she was deprived of. I attended court hearing on Wednesday, Sept. 6, 1995 before Judge Harry Chandless in Hasbrouck Heights, N. J., who released Ms. Freeman, while Ms. Holly Crimini of the probation department advised the court she had a medical problem. After her arrest, she returned to 390 Park Street, Hackensack and I advised Ms. Freeman again that she should move her few belongings out. She agreed to that, gained entry, and then spoke to her boyfriend, who she alleges knows about police matters. (Her boyfriend claims he knows many of the officers at the jail).

re: Beverly Freeman, N.J. v. Beverly Freeman. C-150-94; Theft. N.J.S. 2C:20-9; N.J. S. 2C:20-4, Theft By Deception; Bergen C6ty Superior Court, N.J.S. 2C:28-4B, Uttering Fictitious Reports. etc. - 2 - Sept. 8. 1995

On Thursday. Beverly Freeman caused the front door lock to be changed on the front door of the house. resulting in locking me out of the house. I requested that the Hackensack police department take my complaint on Thursday. Sept. 7. 1995 charging her with trespassing, but they refused to write up the complaint. I am contacting you for your advise.

I cannot put up with Ms. Beverly Freeman and her boyfriend whom she sees daily under circumstances where I am locked out of my own house, and the Hackensack police seem unaware that Ms. Freeman has a housing problem along with a criminal record.

Very truly,

Salvatore Moretti

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414

September 10, 1995

Sheriff Jack Terhune
Justice Center
10 Main Street
Hackensack, N. J. 07601

Prosecutor John Fahy
Justice Center
10 Main Street
Hackensack, N. J. 07601-3672

Hackensack Municipal Court
215 State Street
Hackensack, N. J. 07601
att: Violation Dept.

re: Beverly Freeman, N.J. v. Beverly Freeman, C-150-94, N. J. Superior Court; Theft, N.J.S. 2C:20-9; N.J. S. 2C:20-4, Theft By Deception, N.J.S. 2C:28-4B, Uttering Fictitious Reports. etc.; Trespassing at 390 Park St., Hackensack

Dear Sirs:

I own 390 Park Street, Hackensack, N. J., (a.k.a. Block 415, Lot 8.B.) I have owned that property since September 30, 1980, fifteen years ago. I am paid up on my municipal real estate taxes (which are $3,674.00 per year).

On August 25, 1995, Beverly Freeman advised me that she was moving out of 390 Park Street, Hackensack. She was a transient, had not paid her rent, and stated that she did not

want to live in a single family house. I advised her that 390 Park Street had only one tenant, and it was owner occupied.

On August 30. 1995. the Bergen County Sheriff's Department came at 3 p.m. and arrested Beverly Freeman at 390 Park Street. Hackensack. Officer Bland identified himself. hand-cuffed Ms. Freeman, and along with two other officers brought her to the Bergen County Jail Annex.

I learned that Ms. Freeman was violating her probation, had not notified her parole officer of her whereabouts, had not reported to her probation officer. Holly Crimini was her probation officer at 133 River Street, Hackensack. Ms. Freeman had advised me about none of these legal problems, had not advised me she had a criminal record, and had not confided with me in any respect.

On Wednesday. September 6. 1995. Ms. Freeman was taken before Judge Harry W. Chandless. Jr. at the Hasbrouck Heights Court House. 248 Hamilton Avenue. Hasbrouck Heights. Mr. Allen is the Prosecutor. Holly Crimini was called to testify about the case, and advised the court Ms. Freeman claimed her VOP

was due to a medical problem, but that she had difficulty with that explanation. Judge Chandless sentenced Ms. Freeman to one week in jail, gave her credit for serving one week in jail, and then released her.

After release, Ms. Freeman returned to 390 Park Street, Hackensack, and I advised her based upon her failure to pay rent and due to our prior conversations that she would be moving, told her she would be allowed to enter 390 Park Street, Hackensack only to move her few belongings out. I assured her that there were numerous boarding houses in town which she would find suitable for her.

After entering, she spoke to an associate who stated that he was familiar with police work, and she decided to change the front door lock, obtain a key for herself, and file complaints with the police department. In fact, the Hackensack police department received so many complaints, they threatened to place me under arrest because "I" was bothering them. They advised that I could not seek to remove Ms. Freeman because she was protected by the summary dispossess statute (which applies to apartment houses and boarding houses with three or more tenants - 390 Park Street

has never had more than two tenants). The statute. N.J.S.2A:18-61.1 clearly states at the fourth line. that the Superior Court does not have jurisdiction over removal of tenants in cases where the building is "(1)owner-occupied premises with not more than two rental units."

One policeman responding to Ms. Freeman's continuous complaints was so angered that he banged on doors with his nightstick, yelling "you are violating the law, " another said "you are an ass-hole," another said, "I am going to arrest you if you do not leave this house," another claimed he was going to kick down a door, and he began battering at the door with his night-stick. opening the door. Another policeman said , "you lied to me." On one occasion I was surrounded by police cars while I was walking on the street, and Ms. Freeman came out of 390 Park Street complaining endlessly. On another occasion I drove up to my property and I was surrounded by police cars claiming I would be arrested. Apparently, Ms. Freeman is not only sick, she is also reacting badly to her incarceration.

My property should not be used as a settlement house for

re: Beverly Freeman, N.J. v. Beverly Freeman, C-150-94, N. J. Superior Court; Theft, N.J.S. 2C:20-9; N.J. S. 2C:20-4, Theft By Deception, N.J.S. 2C:28-4B, Uttering Fictitious Reports. etc.; Trespassing at 390 Park St., Hackensack - 5 - Sept. 10, 1995

convicts, particularly since I have not received prior notification by the police department or the prosecutor's office about the problem of dealing with people who are from the Bergen County jail system on River Street, Hackensack.

Very truly, (s) Salvatore Moretti

enc. Excerpts from N.J.S.2A:18-61.1 - Removal of Residential Tenants; grounds

Via Certified Mail, Return Receipt Requested
Cert. No.P325 541 273, RRR
Sheriff Jack Terhune, Justice Center
10 Main Street, Hackensack, N. J. 07601-3672
Cert No. P325 541 274, RRR
Prosecutor John Fahy, Justice Center
10 Main Street, Hackensack, N. J. 07601-3672
Cert. No. P325 541 275, RRR
Hackensack Municipal Court
215 State Street, Hackensack, N. J. 07601
att: Violation Dept.

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414
September 11, 1995
Judge Harry W. Chandless, Jr.
Hasbrouck Heights Municipal Court
248 Hamilton Avenue
Hasbrouck Heights, New Jersey 07604
Holly Crimini
Bergen County Probation Department
133 River Street
Hackensack, New Jersey 07601
Frederick Allen, Prosecutor
Hasbrouck Heights Municipal Court
248 Hamilton Avenue
Hasbrouck Heights, New Jersey 07604
Hackensack Municipal Court
215 State Street
Hackensack, New Jersey 07601
att: Violations Dept.
Hackensack Police Chief Aletta
Hackensack Police Department
225 State Street
Hackensack, New Jersey 07601-5581
Hackensack Post Office
State Street
Hackensack, N. J. 07601

re: Beverly Freeman, N.J. v. Beverly Freeman, C-150-94, N.

J. Superior Court: Theft, N.J.S. 2C:20-9; N.J. S. 2C:20-4. Theft By Deception. N.J.S. 2C:28-4B. Uttering Fictitious Reports. etc.; Trespassing at 390 Park St., Hackensack; Sealing of Mail Box at 390 Park Street, Hackensack and Entry Doors

Dear Sirs:

On September 11. 1995 I returned from filing a trespassing complaint stating that Beverly Freeman was trespassing at 390 Park Street, Hackensack, to discover that the mail box and door locks at that address were glued shut. Since this was done by someone inside the house, and since I received a telephone call from Beverly Freeman which demonstrated anger toward me, I asked her if she had done this mischief. She had already called the police in order to report that I was in the neighborhood, so that when they arrived, the police were there to hear the question asked of her. She did not deny doing this mischief. Just as this occurred, a man arrived who was illegally entering 390 Park Street, Hackensack, who said he was Beverly Freeman's boyfriend. He entered the house without my permission. The police refused to prevent this. They asked who he was but he refused to identify himself and the police did not insist that he do so. In fact, they stated, if I thought this was an emergency, they would put handcuffs on me and take me downtown.

Very truly,
(s) Salvatore Moretti

SALVATORE MORETTI
390 PARK STREET
HACKENSACK. NEW JERSEY 07601
DEFENDANT PRO SE

STATE OF NEW JERSEY.	: CITY OF HACKENSACK
	: MUNICIPAL COURT
	: BERGEN COUNTY
vs.	: Summons No. S913818
	: Summons No. W162351
SALVATORE MORETTI,	: ENTRY OF APPEARANCE,
Defendant	: PLEA, AND DEMAND FOR DISCOVERY

To: City of Hackensack
Hackensack Municipal Court
215 State Street
Hackensack, New Jersey 07601

Take notice that the undersigned hereby enters his appearance on behalf of the defendant.

Take further notice that a plea of Not Guilty is hereby entered. Take further notice that discovery is hereby demanded of the State pursuant to R. 3:13-3.

Demand is also made for compliance with Evidence Rule 64. Upon receipt of discovery, I shall deem it to be complete.

Dated: Sept. 15, 1995

By: (s). Salvatore Moretti, Defendant Pro Se

cc: Prosecutor Henry Amoroso, Municipal Prosecutor of Hackensack, 215 State Street, Hackensack, New Jersey 07601

P.S. Specific demand is concerning COMPLAINT AGAINST BEVERLY FREEMAN; WARRANT: W0988446(9), MADE BY: BERGEN COUNTY POLICE

AGAINST DEFENDANT: BEVERLY FREEMAN. ADDRESS: 390 PARK STREET, HACKENSACK, N.J. ZIP: 07601. COMPLAINANT WAS COM: JEFFREY VECCHIONE C/0f: BERGEN COUNTY POLICE, ADDRESS: 66 ZABRISKIE ST., HACKENSACK, NEW JERSEY ZIP: 07601, ON: 11/26/94 IN: HACKENSACK, N.J. STATUTE VIOLATED: POSSESSING ALTERED REGISTRATION - 39:3-38.1.A. PLEA 3/14/95 TO RECORDS. EXHBITING ALTEREED DRIVER LICENSE 39:3-38.1.B. OATH SUBSCRIBED ON: 11/26/94 BY: 060122 WARRANT ISSUED ON: 11/26/94 BY: 0271. TO APPEAR ON: 11/28/94 AT: 1:30 HOUR BAIL FIXED AT: $20000. DEFENDANT IN JAIL 11/26/94. $20000 BAIL SET. Also Demand for Discovery with regard to Case No. C150-94, N. J. Superior Court; Theft, N.J.S. 2C:20-9; N.J. S. 2C:20-4, Theft By Deception, N.J.S. 2C:28-4B, Uttering Fictitious Reports. Also Arrest of Beverly Freeman at 390 Park St., Hackensack on 8/30/95 and appearance before Hasbrouck Heights Municipal Court on 9/6/1955 with regard to false check, and failure to report to probation at 133 River St., Hackensack.

N. J. S. 2C:33-4. Harassment

Except as provided in subsection d., a person commits a petty disorderly persons offense if, with purpose to harass another, he:

a. Makes, or causes to be made, a communication or communications anonymously or at extremely inconvenient hours, or in offensively coarse language, or any other manner likely to cause annoyance or alarm;

b. Subjects another to striking, kicking, shoving, or other offensive touching, or threatens to do so; or

c. Engages in any other course of alarming conduct or of repeatedly committed acts with purpose to alarm or seriously annoy such other person.

A communication under subsection a. may be deemed to have been made either at the place where it originated or at the place where it was received.

d. A person commits a crime of the fourth degree if in committing an offense under this section, he acted, at least in part, with ill will, hatred or bias toward, and with a purpose to intimidate, an individual or group of individuals because of race, color, religion, sexual orientation or ethnicity."

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414

September 16, 1995

Hackensack Municipal Court
215 State Street
Hackensack, New Jersey 07601
att: Violations Dept.

Hackensack Municipal Court
215 State Street
Hackensack, New Jersey 07601
att: Prosecutor Henry Amoroso

re: Complaint by Beverly Freeman, New Jersey v. Salvatore Moretti, N. J. S. 2C:33-4, based upon two complaints filed by Beverly Freeman; Complaint dated Sept. 8, 1995, S913818, Police Case No. 95-24826, Charging N.J.S. 2C:33-4; Complaint dated Sept. 11, 1995 No. W162351, Charging N.J.S.2C:33-4C., Police case No. 95-25124.

Dear Judge Dinice and Prosecutor Amoroso:

Enclosed find my Notice of Appearance and Revised Demand for Discovery in the above captioned case. The

revised demand for discovery is based upon the lengthy criminal record of Beverly Freeman.

I telephoned Mr. Henry Amoroso's law office on September 15. 1995 in order to communicate with him the necessity to have the required discovery in time for trial on September 18. 1995 at 3 p.m. before the Hackensack Municipal Court.

Very truly,

_____

Salvatore Moretti

SALVATORE MORETTI
390 PARK STREET
HACKENSACK. NEW JERSEY 07601
DEFENDANT PRO SE

STATE OF NEW JERSEY, :	
vs.	: CITY OF HACKENSACK
SALVATORE MORETTI	: MUNICIPAL COURT
Defendant	: BERGEN COUNTY
	: Summons No. S913818
	: Summons No. W162351
	:

ENTRY OF APPEARANCE,
PLEA, AND REVISED DEMAND

To: City of Hackensack
Hackensack Municipal Court
215 State Street
Hackensack, New Jersey 07601

Take notice that the undersigned hereby enters his appearance on behalf of the defendant.

Take further notice that a plea of Not Guilty is hereby entered. Take further notice that discovery is hereby demanded of the State pursuant to R. 3:13-3.

Demand is also made for compliance with Evidence Rule 64. Upon receipt of discovery, I shall deem it to be complete.

Dated: Sept. 16, 1995, By: Salvatore Moretti, Defendant Pro Se

cc: Prosecutor Henry Amoroso, Municipal Prosecutor of Hackensack. .215 State Street, Hackensack,New Jersey 07601

P.S. Specific demand is concerning COMPLAINTS AGAINST

BEVERLY FREEMAN (Social Security No.:135-44-8081, Date of Birth - 12/20/51, Driver's License No. F7304-09300-62512;

1. WARRANT: W0988446(9), MADE BY: BERGEN COUNTY POLICE AGAINST DEFENDANT: BEVERLY FREEMAN, ADDRESS: 390 PARK STREET, HACKENSACK, N.J. ZIP: 07601. COMPLAINANT WAS COM: JEFFREY VECCHIONE C/0f: BERGEN COUNTY POLICE, ADDRESS: 66 ZABRISKIE ST., HACKENSACK, NEW JERSEY ZIP; 07601, ON: 11/26/94 IN: HACKENSACK, N.J. STATUTE VIOLATED: POSSESSING ALTERED REGISTRATION - 39:3-38.1.A. PLEA 3/14/95 TO RECORDS. EXHIBITING ALTEREED DRIVER LICENSE 39:3-38.1.B, OATH SUBSCRIBED ON: 11/26/94 BY: 060122 WARRANT ISSUED ON: 11/26/94 BY: 0271. TO APPEAR ON: 11/28/94 AT: 1:30 HOUR BAIL FIXED AT: $20000. DEFENDANT IN JAIL 11/26/94. $20000 BAIL SET;

Complaint by Beverly Freeman, New Jersey v. Salvatore Moretti, N. J. S. 2C:33-4, based upon two complaints filed by Beverly Freeman; Complaint dated Sept. 8, 1995, S913818, Police Case No. 95-24826, Charging N.J.S. 2C:33-4; Complaint dated Sept. 11, 1995 No. W162351, Charging N.J.S.2C:33-4C., Police case No. 95-25124.

Revised Demand for Discovery by Salvatore Moretti in re Beverly Freeman, whose Social Security No. is 135-44-8081, Date of Birth - Dec. 20, 1951, Driver's License No. F7304-09300-62512. - 3 -

2. Also Demand for Discovery with regard to Case No. C-150-94, N. J. Superior Court; Theft, N.J.S. 2C:20-9; N.J. S. 2C:20-4, Theft By Deception, N.J.S. 2C:28-4B;

3. Also Demand for discovery with regard to Arrest of Beverly Freeman at 390 Park St., Hackensack on August 8, 1995 and appearance before Hasbrouck Heights Municipal Court on September 6, 1955 with regard to false check, and failure to report to probation at 133 River St., Hackensack, one year probation to Oct. 5, 1995. Violation of N.J. Stat. 2C:20-4, Theft By Deception, $286.54 for Restitution, $75 for Safe Streets, $200 for Fine, 30 for Curt Costs, $50 to Violent Crimes Compensation Board.
Judge Harry Chandless Jr. heard case on Sept. 6, 1995 and extended probation six months to April 5, 1996. Probation Department testified, Mr. Allen prosecuted for Hasbrouck Heights;

4. Complaint Filed against Beverly Freeman, Summons No. S0994331, Rochelle Park Municipal Court, Complainant: Michael Mbagwu, care of Shop Rite, 220 West Passaic Street, Rochelle Park, New Jersey 07662, on April 21, 1995, Charge: N.J. Stat. 2C:20-11 - Shoplifting. To appear on May 9, 1995 at 3 p.m.;

5. Bergen County Indictment N. 95-0679001, State of New Jersey v. Beverly Freeman, To appear before Judge Sybil Moses in August 25, 1995. represented by Public Defenders Office;

6. Complaint against Beverly Freeman, uttering fictitious reports, N.J. S. 2C:28-4b, Fictitious reports to law enforcement authorities, Commission of Offense in Hackensack, - stated car was stolen, Dec. 7, 1984, Hackensack Municipal Court Judge Dinice on Jan. 25, 1995 held trial, sentenced to 30 days - Beverly Freeman given credit for time served.

7. State Jail term on March 29, 1974, sentenced to Woman's Reformatory, Clinton, N. J. Defendant in jail bail set at $10,000;
Enrolled Odessy House for one year.

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(20) 646-1414

April 1, 1996

Superior Court of New Jersey
Special Civil Part
Bergen County Justice Center
10 Main Street
Hackensack, New Jersey 07601

re: Salvatore Moretti v. Beverly Freeman and Hackensack Police Department. Docket No. DC-2603-96; Reply to Motion for Summary Judgment

Dear Clerk of the Court:

I received a notice dated March 25, 1996 which states among other matters that a Richard E. Salkin, Esq, of 50 Main Street, Hackensack, New Jersey 07601 seeks to appear on behalf of the Hackensack Police Department, in a complaint filed by myself as above captioned, docket No. DC-2603-96 in the Special Civil Part.

In Mr. Salkin's papers appears the comment that this case should be dismissed because of a Notice Provision appearing in the New Jersey Tort Claims act, which allegedly holds harmless entities within the state government when they lack notice.

While Mr. Salkin's contention that the above legal representation and allegations of lack of notice have been advanced as plausible in this case, it appears that there is a discrepancy between the notice provision in the New Jersey Tort Claims act and the concept of notice with which we are familiar in the law.

Mr. Salkin addresses his papers as legal briefs without supporting cases, and without conforming case law to the specifics in the case at bar. As a result, it is not possible to address his argument in that it does not appear to have any legal justification. Since he has failed to suggest how it applies to the facts in this case, I request that he clarify that before I address the merits of his defense, if it be a defense.

Mr. Salkin appears to claim that the Hackensack Police Department is an entity which should be addressed as the Hackensack Municipal Government, and the actions of the police are municipal actions - to wit that I should have sued the mayor and council, or perhaps the insurance carrier.

As a matter of discovery, I suggest that he advise me who is the insurance carrier for Hackensack so that I may have a ruling in this case.

Salvatore Moretti v. Beverly Freeman and Hackensack Police Department. Docket No. DC-2603-96; Reply to Motion for Summary Judgment, page 3 - April 1, 1996 -

I trust that should this matter be given to a judge of the Superior Court, Mr. Salkin's explanation as to insurance coverage will be provided beforehand so that oral argument may be presented in lieu of ruling on the papers. Failing to so provide will be costly in the long run.

Very truly,

_____

SALVATORE MORETTI

cc: Beverly Freeman
P. O. Box 1160
Maywood, New Jersey 07607

Richard Salkin
50 Main St
Hackensack, N. J. 07601

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(20) 646-1414

April 26, 1996

Superior Court of New Jersey
Special Civil Part
Bergen County Justice Center
10 Main Street
Hackensack, New Jersey 07601

re: Salvatore Moretti v. Beverly Freeman and Hackensack Police Department, Docket No. DC-2603-96; Reply to Motion for Summary Judgment, Motion for Reconsideration of Dismissal for Failure to Comply with N.J. Tort Claims Act.

Dear Clerk of the Court:

On April 26, 1996, the above captioned matter came on for hearing pursuant to the defendant, City of Hackensack's motion to dismiss for failure to comply with the New Jersey Tort Claims Act, N. J. Stat. Ann. 59:1-1 et seq.

Based upon Judge Austin's conduct of the hearing, it is apparent that he was not aware that he had been the trial judge in this very case who on Thursday, Sept. 28, 1995 ordered that Ms. Freeman would be locked out of 390 Park Street, Hackensack.

When I proposed to counter Mr. Salkin's motion with documents dated Sept. 8 and Sept. 11, 1995, he was under the impression that the cause of action related back to Sept. 12, 1995 to Sept. 15, 1995 (the period I was the in jail after Freeman filed a complaint and warrant with the Hackensack Police Dept., both of which I maintain were groundless), and hence could not accept them as related to this cause of action.

Based upon the resulting confusion, I am submitting the attached certification and seeking a re-hearing on the motion for dismissal for failure to comply with the N. J. Tort Claims Act.

Very truly,

_____

Salvtore Moretti, Plaintiff Pro Se

cc: Richard Salkin (On Behalf of City of Hackensack)
Public defender's Office (On Behalf of Beverly Freeman)

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(20) 646-1414

April 26. 1996

Hon. Eugene H. Austin
Superior Court of New Jersey
Special Civil Part
Bergen County Justice Center
10 Main Street
Hackensack, New Jersey 07601

re: Salvatore Moretti v. Beverly Freeman and Hackensack Police Department, Docket No. DC-2603-96; Reply to Motion for Summary Judgment, Motion for Reconsideration of Dismissal for Failure to Comply with N.J. Tort Claims Act.

Dear Judge Austin:

On April 26, 1996, the above captioned matter came on for hearing. The decision at hearing was that the case be dismissed as to the defendant City of Hackensack. This party plaintiff just received the May 2, 1996 reply by Mr. Salkin to the April 27, 1996 certification. Mr. Salkin quotes a complaint (9479-95) filed in the New Jersey Tax Court one year after plaintiff's prior N. J. Tax Court complaint, No. 8336-94. The Tax Court was presided over by Judge Pizzuto

who already had ample opportunity to review one year's motions and addenda to that complaint, thus the portion of the proceedings quoted by Mr. Salkin are merely the notice of filing in the court, rather than the substance of the complaint. For example when this party submitted to the Appellate Division its brief and appendix on July 7, 1995, plaintiff included such materials as a transcript before Judge Dinice submitted to Judge Pizzuto at Plaintiff's App. 380 stating, "[members of the police department] were in there [plaintiff's property] three nights all night long." Judge Dinice: "You are to leave here immediately and allow Mrs. Mandeville into that area where she wants to get into..." At Pa 533, there appears the order of Judge Koblitz on November 12, 1993 that "ORDERED that the Hackensack Police Department assist him (Fayehun] in the serving of these papers and the re-entry of the [Room No. 1 which Beverly Freeman occupied] if necessary. [Signed - Ellen Koblitz, Presiding Judge, Special Civil Part]. Apparently, Judge Koblitz thought she had jurisdiction over a single family house, contrary to the jurisdictional prerequisites set forth in the summary dispossess law. IT IS MORE THAN COINCIDENCE THAT THE HACKENSACK POLICE DEPARTMENT ENTERED THE
VERY SAME ROOM AS FREEMAN OCCUPIED TO EFFECT ENTRY.

Clearly, Mr. Lenner did not provide any of the above materials to Mr. Salkin, nor are the above quotes complete as to the issue of notice to which plaintiff referred in his April 27, 1996 certification.

Very truly,

SALVATORE MORETTI. PLAINTIFF PRO SE

SALVATORE MORETTI
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
(201) 646-1414

SALVATORE MORETTI, :SPECIAL CIVIL PART
vs. Plaintiff : CIVIL ACTION
BEVERLY FREEMAN, and :
HACKENSACK POLICE : COMPLAINT
DEPARTMENT, :
Defendants:

The Plaintiff Salvatore Moretti demands of the defendant the sum of $7500.00. The defendants occupied the house at 390 Park St. Hackensack, calling headquarters nine times or more, and locking me out. Freeman did not pay rent for two months, and preferred charged resulting in my being jailed by the Hackensack Police for 3 days. Glue was placed in all my door locks; locks were changed. This was a conspiracy since I lived there 15 years, pay my taxes, but the defendants ordered me out of my house, arrested me, jailed me, etc. The case before the Hackensack Municipal Court, C95-2227 & C94-3252 was dismissed by acting judge S. Theodore Takvorian.

Judgment will be claimed in the sum of $7500.00 together with interest and cost of suit.

I HEREBY CERTIFY THAT THE MATTER IN CONTROVERSY IS NOT THE SUBJECT OF ANY OTHER COURT ACTION OR ARBITRATION PROCEEDING NOW PENDING OR CONTEMPLATED, AND THAT NO OTHER PARTIES SHOULD BE JOINED IN THIS ACTION. (S) Salvatore Moretti

RICHARD E. SALKIN
ATTORNEY AT LAW
50 MAIN STREET
HACKENSACK, N. J. 07601

Member of the Bar: N. J. & N. Y.
(201) 342-3626

May 2nd, 1996

Mr. Angelo J. Cataldo, Clerk
Bergen County Special Civil Part
Bergen County Justice System
10 Main Street
Hackensack, New Jersey 07601

re: Salvatore Moretti -vs- Beverly Freeman and Hackensack Police Department, Docket No. DC-2603-96

Dear Mr. Cataldo:

Please be advised that I represent the City of Hackensack (incorrectly designated as the Hackensack Police Department) with respect to the above captioned matter.

On April 26th, 1996 Judge Austin granted our Motion to dismiss the above Complaint, without prejudice, as to the City of Hackensack, due to Plaintiff's failure to comply with the Notice of Claim provision of N.J.S.A 59:1-1 et seq. (the 'Tort Claims Act').

Plaintiff has now filed a Motion for reconsideration of

Judge Austin's ruling (please note that as of this writing I have not received a copy of the Order).

Kindly accept this Letter Memorandum in lieu of formal Brief in response to said Motion.

Plaintiff has submitted a six page Certification with attachments in support of his Motion for Reconsideration. His premise appears to be that he did, in fact, provide Notice of his claim and, therefore, his Complaint should not have been dismissed.

Close scrutiny of Plaintiff's Certification chronicle twenty years of unrelated, frivolous, litigation instituted by Plaintiff against the City of Hackensack. Plaintiff asserts that this course of conduct brings us to the point that "...the City of Hackensack has been placed on continuous notice of the complaints by this Plaintiff, Salvatore Moretti." (Moretti Certification of April 27th, 1996, Paragraph 2).

Plaintiff seems to be implying that his seemingly compulsive need to be in litigation with the City of Hackensack has established a 'lifetime pass' or waiver of Statutorily required notice provisions. This is an extraordinary concept. Unfortunately for Plaintiff, it is not the law. Plaintiff's 1977 litigation did not put the City on notice of a claim alleged to have occurred in September, 1995.

Next, Plaintiff (in a sworn statement to the Court!), certifies that "In fact...he]... had kept the City apprised of the matters subjudice [sic] by filing a Complaint in the New Jersey Tax Court on November 8, 1995, Docket No. 9479-95. Donald Lenner, Esq. handles the case for he City of Hackensack in that case, whom Mr Salkin can contract to make himself aware of the specifics" (Moretti Certification, Paragraph 8).

So I did. Attempting to give Plaintiff the benefit of the

doubt (with the thought that perhaps he did, as he has now certified to the Court, substantially comply with the Tort

Claims act and satisfy the Notice of Claim provisions by virtue of his Tax Court Complaint), I obtained a copy of the tax court Complaint (copy attached as 'exhibit A') Imagine how disappointed i was to discover that Salvatore Moretti has lied to the Court; there is no such information contained in that Complaint. If Plaintiff were a member of the Bar he would likely be facing a sanction from the Court or a referral of the matters to the Ethics Board. He is a Pro Se litigant, so the Court wouldn't consider such a sanction, would it?

Finally, Plaintiff argues that two (2) letters that he sent (and for purposes of this Motion I will assume that the letters attached to the Certification are true copies of letters actually sent and received by them multiple addresses indicated thereon) which he has designated as P-1 Id. and P-2 Id., constituted appropriate Tort Claims Act Notices of Claim which legitimize the Complaint fled in the matter before the Court. Again, and as Judge Austin recognized at oral argument on April 25th, 1996, the argument is not supported by the facts.

The complaint in this matter, captioned as a Tort action, makes the following references to the actions of the Hackensack Police Department:

> "...Freeman [co-defendant] preferred charges resulting in my being jailed by the Hackensack Police for 3 days... The Defendants [the Police?] ordered me out of my house, arrested me, jailed me, etc. ..."

For purposes of this Motion, this is not disputed The

problem is, as indicated on the copy of Complaint W 162351 (copy attached as "Exhibit B"), Plaintiff was incarcerated on September 12th, 1995 after he would not or could not post $1,000.00 bail until he was released R.O.R. on September 14th, 1995.

P-1 is a letter dated September 8, 1995. It is addressed to the Hasbrouck Heights Municipal Court Judge, a County Probation Officer, a Hasbrouck Heights Municipal Prosecutor, and the Hackensack Municipal Court. It obviously does not refer to an arrest warrant signed three days later, nor an arrest four days later.

P-2 is a letter dated September 10, 1995. This one is addressed to the County Sheriff, the former County Prosecutor and the Hackensack Municipal Court (att.: Violation Dept.").

While the letter alleges that Plaintiff had a disagreement with (sic) unidentified member of the Hackensack Police Department regarding New Jersey Landlord Tenant Law, and that at some indefinite time, a Hackensack Police Officer (again unidentified) called him an "ass-hole" (is this a defamation case? One is tempted to point out the nature of certain absolute defenses to same), the letter does not and could not given the requisite notice of events that did not yet happen!

To state it in a manner that, hopefully, Plaintiff will understand; if he was involved in an auto accident with a Hackensack Police Officer on September 8th, 1995 and provided the requisite notice of same, a subsequent auto accident on September 12th, 1995 with the same officer would not be covered by the same notice.

The Plaintiff is, as his wont and custom, wasting the

Court's time with this Motion. On April 26th, 1996, the Court advised him of his ability to appeal the Dismissal Order. Could it be that Plaintiff recognizes that he cannot make out a case constituting "extraordinary circumstances: (N.J.S.A. 59:8-9) so as to be permitted by the Court to file a late Tort Claims Notice?

The Motion for reconsideration should be denied. I have enclosed a proposed form of Order for the Court's use.

Respectfully submitted,
(s) Richard E. Salkin, Esq.
City Attorney, Hackensack
cc: Mr. Salvatore Moretti
Ms. Beverly Freeman

RICHARD SALKIN
ATTORNEY AT LAW
50 MAIN STREET
HACKENSACK, N.J. 07601
(201)342-3626

Member of the Bar, N.Y. & N.J

March 25, 1996

Mr. Angleo Cataldo
Bergen County Special Civil Part
Bergen County Justice Center
10 Main Street
Hackensack, New Jersey 07601

re: Salvatore Moretti -vs- Beverly Freeman and Hackensack Police Department, Docket No. DC-2603-96

Dear Mr. Cataldo:

Enclosed please find:

1. Notice of Motion for Summary Judgment;
2. Affidavit of the undersigned in support of said Motion;
3. Proof of Mailing;
4. Proposed form of Order.

Further, please accept this Letter Memorandum in lieu of formal Brief in support of Defendant, City of Hackensack (incorrectly designated as the Hackensack Police Department) Motion for Summary Judgment.

N.J.S.A. 598-3 provides:

> No action shall be brought against a public entity under this act unless the claim upon which it is based shall have been presented in accordance with the procedure set forth in this chapter.

N.J.S.A. 59:8-8, in pertinent part provides:

> A claim relating to a cause of action for death or for injury or damage to person or to property shall be presented as provided in this chapter not later than the ninetieth day after accrual of the cause of action. After the expiration of six months from the date notice of claim is received, the claimant may file suit in an appropriate court of law...

While Plaintiff's Complaint is virtually indecipherable, it is captioned as a tort action seeking $7,500.00 from the Defendants. Plaintiff's first and only notice to the City was the service of the Complaint.

For the foregoing reasons, the City of Hackensack respectfully urges the entry of an Order Dismissing the Complaint without prejudice.

Respectfully submitted, (s) Richard E. Salkin, Esq
City Attorney, Hackensack
RES/smf
enc
cc: Mr. Salvatore Moretti and Ms. Beverly Freeman

RICHARD E. SALKIN
50 MAIN STREET
HACKENSACK, N.J. 07601
(201) 342-3626
ATTORNEY FOR DFENDANT,
Hackensack Police Department

SALVATORE MORETTI,	:	SUPERIOR COURT
Plaintiff	:	OF NEW JERSEY
vs.	:	LAW DIVISION
BEVERLY FREEMAN and	:	BERGEN COUNTY
HACKENSACK POLICE	:	SPECAL CIVIL PART
DEPARTMENT,	:	Docket No. Dc-2603-96
Defendant	:	CIVIL ACTION
	:	NOTICE OF MOTION
		FOR SUMMARY JUDGMENT

TO: SALVATORE MORETTI, PRO SE
390 PARK STREET
HACKENSACK, NEW JERSEY 07601
BEVERLY FREEMAN
P. O. BOX 1160
Maywood, New Jersey 07606

PLEASE TAKE NOTICE That at such and such date and time to be determined by the Court, the undersigned, as Attorney for the City of Hackensack (improperly designated as the Hackensack Police Department) will move before the Court assigned to hear this matter for an order dismissing the Complaint as to the City of Hackensack due to plaintiff's failure to comply with N.J.S.A. 59:1-1 et seq. (the "Tort

Claims Act"); and

TAKE FURTHER NOTICE that the Order of Dismissal sought will be entered in the discretion of the Court unless you notify the Clerk of the Court and the undersigned, in writing, within ten (10) days from the service of this Notice that you object to the entry of the Order; and

TAKE FURTHER NOTICE that any objection to the relief sought hereby must be stated with particularity and you may request oral argument.

DATED: March 25th, 1996. (s) RICHARD E. SALKIN, ESQ.
CITY ATTORNEY, HACKENSACK

RICHARD E. SALKIN
50 MAIN STREET
HACKENSACK, N.J. 07601
(201) 342-3626. Attorney for Defendant,
Hackensack Police Department

SUPERIOR COURT OF NEW JERSEY

SALVATORE MORETTI,	:	Affidavit of Richard
Plaintiff	:	E Salkin, Esq.
vs.	:	LAW DIVISION
BEVERLY FREEMAN and	:	BERGEN COUNTY
HACKENSACK POLICE	:	SPECAL CIVIL PART
DEPARTMENT,	:	Docket No. Dc-2603-96
Defendant	:	CIVIL ACTION

RICHARD E. SALKIN, of lawful age, being duly sworn according to law, upon his oath, deposes and says:

1. I am an Attorney at Law of the State of New Jersey.

2. According to the Complaint and Summons filed herein by Plaintiff (copy attached), this is a tort claim brought against the City of Hackensack (incorrectly designated as the Hackensack Police Department), a municipal corporation of the State of new jersey, and a Co-Defendant named Beverly Freeman. I have reviewed the records of the Hackensack Municipal Court. These records disclose that the conduct of the Hackensack Police Department with which Plaintiff apparently takes issue occurred between September 8th, 1995 and September 14th, 1995.

3. Since that time, no Notice of Clam has been received from, or on behalf of, Plaintiff by an representative of the City

of Hackensack as required by N.J.S.A. 59:8-3 and 59:8-8.
(s) RICHARD E. SALKIN

Sworn and Subscribed to before me this 25th day of March, 1996, (s) Sandra M Frimmet, Notary Public of New Jersey, My Commission Expires Dec. 7, 1998.

The Color of Justice: Race, Ethnicity, and Crime in America, by Samuel Walker, Cassia Spohn, and Miriam DeLone, Wadsworth Publishing Co.., 1996.

At p. 1

The Present Crisis:

"Nearly a hundred years ago the great African American scholar W. E. B. Du Bois declared, 'The problem of the twentieth century is the problem of the color line. By that he meant that racism and racial discrimination were the central problems facing modern society.

"much the same can be said about crime and justice in American society today. Nearly every problem related to criminal justice issues involves matters of race and ethnicity. A few examples illustrate the current crisis:

- Half of all the prisoners in the United States (50.2 percent by January 1993) are African American, despite the fact that backs represent only 12 percent of the American population...
- About 40 percent of the people currently on death row and 53 percent of all the people executed since 1930 are African American...[p. 2]
- A disproportionate number of African Americans are shot and killed by the police.
- Since the mid-1960s, crime has been a central issue in American politics. For many white Americans, the crime issue is an expression of racial fears, fear of victimization by African American offenders, fear of racial integration of neighborhoods.

'In short, on both sides of the color line there is suspicion and fear: a sense of injustice on the part of racial minorities and fear of black crime on the part of whites. American society is deeply polarized over the issues of crime, justice,

and race.'"

[p. 64] "Income measures how much a person or family earns in any given period. Wealth, on the other hand, measures all of their accumulated assets: home, cars, savings, stocks, ad so forth. The family that owns a house, for example, has far more wealth than the family that rents. The 1991 median wealth of white families was $44.408, compared with only $4,604 for African Americans and $5,345 for Hispanics....Lower-middle class families, regardless of race, are often able to buy home only in neighborhoods where property values are stagnant. As a result, their wealth does not increase very much."

[P.69] Community Social Structure And Crime - Racial Segregation

"The most noticeable fact about the underclass is its geographic concentration. The combined effect of racial and economic segregation in residential housing leaves the very poor concentrated in the inner city...Banks and savings and loan companies refused to offer mortgages in poor and minority neighborhoods - a practice known as 'red-lining.' ...Despite federal and state laws outlawing housing discrimination, residential segregation persists today."

[p. 70] "Residential segregation has a direct impact on crime Most important, it concentrates high rate offenders in one area, which has two important consequences. First, the law-abiding residents of those areas suffer high rates of robbery, burglary, and other predatory crimes. The National Crime Victimization

Survey consistently finds that both racial and ethnic minorities and poor people are victimized more than white and middle-

class people."

[p. 203] "In 1992 more African Americans were under some form of correctional supervision (jail, prison, probation, and parole) than were enrolled in college. 1,781,700 versus 1,393,483. Among whites, the situation is just the opposite: 10,870,037 in college compared with 2,682,200 under correctional supervision. These data dramatize the most compelling fact about the American correctional system: African Americans are overrepresented at all levels."

"The New Jersey Jail Crisis: The Judicial Experience," by Hon. Harold A. Ackerman, United Sates District Judge, District of New Jersey, 44 Rutgers law Review 135.

at p. 136. "Today, the United States incarcerates 426 individuals per 100,000 which is the highest known incarceration rate in the world. [followed by South Africa and the Soviet Union] In other terms, there are over one million people in jails, prisons, and detention centers across the nation double the number of ten years ago. 'Since 1978, the adult prison population in New Jersey has more than tripled, the probation population has more than doubled, and the budget of the Department of Corrections has grown by more than 500%.' This explosion of prisoners, however, cannot wholly be attributed to a concurrent increasing the crime rate. In New Jersey, for example, the number of crimes per 100,000 people increased by 6% over the last fifteen years while the incarceration rate increased by more than 200%. Instead, such unprecedented growth must, in large part, be attributed to various policy choices and legislative changes which have resulted n many prisoners receiving longer sentences, often in conjunction with mandatory minimum terms.

Unfortunately, this dramatic rise in the prison population has created over crowded prisons and, in turn, overburdened prison systems. When too many people are clamoring for too few resources and too many people are contained in too small an area, the system begins to break down. As a result, those dependent on the system begin to suffer. In today's society, we will take away someone liberty and call it punishment. If we

add to that punishment, however, by taking away sustaining services such as adequate food, basic medical care, or any semblance of security, we call it cruel and unusual punishment.

at p. 137. "Like many other states, New Jersey simply does not have enough prison beds, much less cells, to accommodate all of its prisoners. Despite an unprecedented expansion of the state prison system funded by six prison construction bonds between 1976 and 1979 the shortage of prison beds is expected to exceed 7,500 by January 1, 1992. Nevertheless, no New Jersey prison has yet been the subject of a court order in large part because each year, beginning in 1981, the governor has declared the state prisons overcrowded and authorized the Commissioner of Corrections to transfer the overflow of state prisoners to the county fails. Not surprisingly, most of the county facilities became overcrowded and most have, at one time or another, been under court supervision. I have handled five of these case [Union County Jail Inmates v. Scanlon, Civil Action No. 81-863; Camden County Jail Inmates v. Parker, Civil Action No. 82-1942 Essex County Inmates v. Collier, Civil Action No. 82-1945; United States v. City of Newark v. County of Essex, Civil Action No. 84-433 Essex County Jail Abbex Inmates v. Amato, Civil Action No. 87-871; Monmouth County Correctional Institution Inmates v. Lanzaro, Civil Action No. 82-1924; Brown v. McDowell, Civil Action No. 7-1142 (Bergen County)].

New Jersey Statutes Annotated. Chapter 51.

LOSS AND RESTORATION OF RIGHTS INCIDENT TO CONVICTION OF AN OFFENSE

2C:51-1. Basis of disqualification or disability.

a. No person shall suffer any legal disqualification or disability because of his conviction of an offense or his sentence on such conviction, unless the disqualification or disability involves the deprivation of a right or privilege which is:

(1) Necessarily incident ot execution of the sentence of the court;

(2) Provided by the Constitution or the code;

(3) Provided by a statute other than the code, when the conviction is of an offense defined by such statute; or

(4) Provided by the judgment, order or regulation of a court, agency or official exercising a jurisdiction conferred by law, or by the statute defining such jurisdiction, when the commission of the offense or the conviction or the sentence is reasonably related to the competency of the individual to exercise the right or privilege of which he is deprived.

b. Proof of a conviction as relevant evidence upon the trial or determination of any issue, or for the purpose of impeaching the convicted person as a witness is not a disqualification or disability within the meaning of this chapter.

2C:51-2. Forfeiture of public office.

a. A person holding any public office, position, or employment, elective or appointive, under the government of this State or any agency or political subdivision thereof, who is convicted of an offense shall forfeit such office or position if:

(1) He is convicted under the laws of this State of an offense involving dishonesty or of a crime of the third degree or above or under the laws of another State or of the United States of an offense or a crime which, if committed in this State, would be such an offense or crime;

(2) He is convicted of an offense involving or touching such office, position or employment; or

(3) The Constitution or a statute other than the code so provides.

. The forfeiture set forth in subsection a. shall take effect;

(1) Upon finding of guilty by the trier of fact or a plea of guilty, if the court so orders; or

(2) upon sentencing unless the court for good cause shown, orders a stay of such forfeiture. If the conviction be reversed, he shall be restored, if feasible, to his office, position or employment with all the rights, emoluments and salary thereof from the date of forfeiture.

c. In addition to the punishment prescribed for the offense, and the forfeiture set forth in 2C:51-2a., any person convicted of an offense involving or touching on his public office, position or employment shall be forever disqualified from holding any office or position of honor, trust, or profit under this State or any of its administrative or political subdivisions.

d. Except as may otherwise be ordered by the Attorney General as the public need may require, any person, convicted of an offense under section 2C:27-2, 2C:27-4, 2C:27-6, 2C:27-7, 2C:294, 2C:30-2,or 2C:30-3 of this Title shall be ineligible, either directly or indirectly, to submit a bid, enter into any contract, or to conduct any business with any board, agency, authority, department, commission, public corporation, or other body of this State, of this or one or more other states, or

of one or more political subdivisions of this State for a period of, but not more than, 10 years from the date of conviction for a crime of the second degree, or 5 years from the date of conviction for a crime of the third degree. It is the purpose of this subsection to bar an individual convicted of any of the above enumerated offenses and any business, including any corporation, partnership, association or proprietorship in which such individual is a principal , or with respect to which such individual owns, directly or indirectly, or controls 5% or more of the stock or other equity interest of such business, from conducting business with public entities.

The State Treasurer shall keep and maintain a list of all corporation barred from conducting such business pursuant to this section

2C:51-3. Voting and jury service

A person who is convicted of a crime shall be disqualified
a. From voting in any primary, municipal, special or general election as determined by the provisions of R. S. 19:4-1 and
b. From serving as a juror as determined by the provisions of N.J.S. 2A:69-1.

CIVIL DEATH

21 Am. Jur 2d Section 1032.

Section 1032. Generally

"At common law, a person convicted of felony was said to be civilly dead; he was regarded as dead in law and could perform no legal function. In this county it has been held that the doctrine does not apply, unless provided for by statute, although it has also been held that the common-law consequences of a conviction, including civil death continue until abrogated by constitution or statute. The constitutionality of civil-death statutes are penal and are strictly construed...

Section 1033. Effect

"Civil death in the strict common-law sense implies extinction of all civil rights. However, it seems that the civil death which accompanied a felony conviction at common law was not so complete as that which resulted from banishment, abjuring the realm, or entering religious orders. The term has been declared to import a deprivation of all rights the exercise or enjoyment of which depends on some provision of the exercise or enjoyment of which depends on some provision or the exercise or enjoyment of which depends on some provision of the positive law. It has been held that the consequences of statutory civil death are no greater than at common law and that the statute must be interpreted with reference thereto. It seems that one who has suffered statutory civil death can still make a valid contract for the breach of which his estate would be answerable, though, on his side, the contract could not be enforced with the aid of the courts, since one civilly dead lacks capacity to sue.

Statutory civil death has been held not a defense to a personal injury action .

24 Proof of Facts 3d Supplement, Proof of Unconstitutional Prison Conditions. at p. 530.

"Q. So you weren't able to watch television or mingle with the rest of the jail population?

A. No.

Q. So for that month that you were on the first floor, you had to spend all of your time in your cell?

A. Except for showers twice a week.

Q. Were there any law books that you could use to try and determine what you would need to have or to do if you wanted to file suit against the jail or its officials?

A. No, there weren't any law books."

23 Vanderbilt Law Review 929. The Collateral Consequences of a Criminal Conviction. Preface

"As a general matter [civil disability law] has simply not been rationally designed to accommodate the varied interests of society and the individual convicted person. There has been little effort to evaluate the whole system of disabilities and disqualifications that has grown up.... As a result, convicted persons are generally subjected to numerous disabilities and dsqualifications which have little relation to the crime committed. the person committing it or, consequently, the protection of society. They are often harsh out of all proportion to the crime committed.

The Presidents Commission on Law Enforcement and Administration of Justice, Task Force Report: Corrections 88 (1967) .

at p. 1080

"Modern statutes that deprive the convict of property rights has their origin in common law attainder and its consequences: forfeiture of the convict's land and chattels, corruption of the blood, and loss of civil rights."

at p. 1155 "One of the most objectionable aspects of civil disability laws is their overbreadth... In many states, involuntary manslaughter is a felony. In one state, defacing a gravestone is punishable by imprisonment for one year. A member of the Armed Forces can be sentenced to imprisonment for one year because of absence from his unit."

Court of Appeals, State Of New York
In the Matter of the Application of Frank Di Chiaro, Appellant, Against the New York City Police Property Clerk, Respondent. Indictment No. 1788-68. New York State Supreme Court Index No,. 5780/72.(Queens County).
Brief of Louis J. Lefkowitz, Attorney General State of New York. "The provisions at issue [Section 79 of the New York Civil Rights Law] are derived from the common law and exist in many other states. It is clear that new York's statutory provision is not 'unusual' in Eighth Amendment terms...The Second Circuit has ruled that the applicable standard under the Eighth Amendment is whether the conduct at issue is 'barborous' and 'shocking'. Sostre v. McGinnis, 442 F.2d 178 191, 194 (2d Cir. 1971). As indicated in Judge Mansfield's thoughtful analysis in Rheem v. McGrath 326 F. Supp. 681 (S.D.N.Y.1971), the central question is whether the actions alleged "sink into the dismal area of man's inhumanity o man" (320 F. Supp. at 681). (Brief pp.8-9) From Lefkowitz's brief at p. 4,

Moreover, as noted in the practice commentary to New Jersey Stat. Ann. Title 59:5-3(1972) which is analogous to the provision at issue: This provision suspends the statute of limitations and the notice provisions of this act for the purpose of permitting prisoners to bring suit against a public entity or public employee only after they have been released from institutional confinement. This approach is similar to that of the State of New York It is taken in the interest of prison harmony and in order to avoid the erosion of prison discipline as well as to discourage the bringing of frivolous suits and the traditional 'outing in court' enjoyed by many inmates in connection therewith."

Appellant's Brief

"[T]he overbreadth of the blanket exclusion in Section 79 should be restricted to its rational boundaries where the State has legitimate countervailing interests. Whether we speak of due process or equal protection as being the operative concept is of little moment. There is simply lacking a sufficient nexus between the legislative means (barring incarcerated felons' lawsuits) and the stated legislative goals or objectives. Accordingly, this Court should declare this statute unconstitutional."

SUPREME COURT OF THE STATE OF N. Y.
COUNTY OF KINGS

	Index No.2727-96
Salvatore Moretti,	
Plaintiff	Affirmation of Michael G.
-vs-	Albano in Support of
Citibank, N.A., Citibank	Defendant's Motion
Branch No. 1, Mary Wing,	To Dismiss County One,
John Doe, et al.,	Two, Five, and Six of
Defendants	The Complaint

Michael G. Albano, an attorney duly admitted to practice law in this State, pursuant to C.P.L.R. Section 2106, affirms under penalties of perjury as follows:

1. I am a member of he firm of Sills Cummis Zuckerman Radin Tischman Epstein & Gross, P.A., counsel to defendants Citibank, N.A., and Citibank Branch Nol. 11 ("Citbank"), and Mary Wind (the "Citibank Defendants") in this action. I make this affirmation from my personal knowledge and in support of their motion for an order pursuant to CPLR Section 3211(a)(7) dismissing counts One, Two, Five, and Six of the plaintiff's complaint (the "Complaint"). A copy of the Complaint is attached hereto as Exhibit A.

2 For reasons set forth fully in the accompanying memorandum of law, the motion of the Citibank Defendants should be granted against the plaintiff Salvatore Moretti.

Dated: May 31, 1996

(s) Michael G.Albano

SUPREME COURT OF THE STATE OF N. Y.
COUNTY OF KINGS

Index No.2727-96

Salvatore Moretti,
Plaintiff
-vs-
Citibank, N.A., Citibank Branch No. 1, Mary Wing, John Doe, et al.,
Defendants

Defendants' Memorandum of Law in Support of their Motion to dismiss Counts, One, Two, Five, and Six of the Complaint.

Preliminary Statement

Defendants Citibank, N.A., sued herein as Citibank, N.A., and Citibank Branch No. 11 (collectively "Citibank", and Mary Wing (the "Citibank Defendants") submit this memorandum of law in support of heir motion for an order pursuant to CPLR Section 3211(a)(7) dismissing counts One, Two, Five, and Six of the plaintiff's complaint (the "Complaint") for failure to state a cause of action. The Complaint is annexed to the accompanying affirmation of Michael B. Albano, Esq. as Exhibit A.

The Complaint is a transparent attempt to pin the blame for the plaintiff's alleged losses on the Citibank Defendants because John Doe, the person who allegedly robbed the plaintiff in a Citibank branch, cannot be located. At best, the Complaint states a cause of action in negligence based on Citibank's alleged failure to prevent an alleged robbery

involving the plaintiff while he was preparing to transact business in a Citibank branch. Any other cause of action explcitedly (sic) or implicitly pleaded is a figment of a delusional individal who apparently has the time to concoct wild theories about individuals and entities who are "out of get" him. Indeed, this plaintiff has a long and unsuccessful history of venting his frustrations with the world by initiating pro se suits against a variety of corporate and municipal entities in the Federal courts and the courts of the State of New Jersey. [See e.g., Moretti v. City of Hackensack, certif. denied, 143 N.J. 324. 670 A.2d 1065 (1996); Moretti v. Dinice, cert. denied _____U.S._____, 115 S.Ct. 2580, 132 L.Ed.2d 830 (1995); Moretti v. New Jersey, cert. denied, ____U.S.____15 S. Ct. 1698, 131 L.Ed.2d 561 (19950; Moretti v. Red Roof Inn, cert. denied, ___U.S. _____, 115 S Ct. 68, 130 L.Ed 2d 486 (1994); Moretti . Zisa, cert. denied ____U.S. _____, 1165 S.Ct. 71, 71, 130 L.Ed.2d 26 (1994); Moretti v. Mult-Pak Corp., cert. denied, 464 U.S. 988, 104 S.Ct. 475, 78 L.Ed.2d 675 (1983), rehearing denied, 465U.S. 1054, 104 S.Ct. 1334, 79 L.Ed.2d 729 (1984). (Copies of these reported decisions are attached to this memorandum of law as Exhibit A.)] He should not be permitted to extend his abuse of the judicial system to the courts of this State.

STATEMENT OF FACTS

Although the facts as stated herein are based on the plaintiff's allegations in the Complaint, they are reorganized for the convenience of the Court in order to clarify a disjointed and often inarticulate complaint. Even though Citibank contends that the plaintiff's allegations are a bizarre

fabrication. Citibank assumes for the purpose of this motion only that the plaintiff's allegations are true.

Salvatore Moretti, a resident of New Jersey who alleged to be the landlord of certain New Jersey property, see Complaint, Paragraph 2, opened a checking account at a Citibank branch on lower Broadway in New York County nor about May 28, 1993, see Complaint, Paragraph 10, in order to deposit the monthly rental receipts on his property. see Complaint, Paragraph 17. Mary Wing, a Citibank employee at this particular branch, assisted Mr. Moretti in opening the account. Approximately one year later, Citibank allegedly sent the plaintiff three notices over a six-week period extending from May 18, 1994 to June 28, 194 informing Mr. Moretti that his addition on his deposit ticket was incorrect and that account balance would be adjusted accordingly. See Complaint, Paragraph 15.

The plaintiff further alleged that he was "harassed" while making his 'customary monthly deposit,' see Complaint, Pargraph 36, on a total of eight occasions over a three-month period extending from May 3, 1994 to august 8, 1994 by men who were taller' and 'huskier' than the rest of the bank patrons. See Complaint Paragraph 16. On several of these occasions, these men allegedly tossed money on the floor near the plaintiff in an attempt to distract him and rob him of his deposit. Id.

On the last of these eight occasions, the plaintiff alleged that he was robbed of his deposit by an unidentified individual who the plaintiff calls 'John Doe,' who appeared to come from the office of Mary Wing while another man distracted the plaintiff by --once again-- tossing money on the floor. See Complaint Paragraph 28. Although the plaintiff states hat his intended

deposit contained approximately $7,000 in cash and one check 'for about $170,' he states that he called out after the robbery: '$3,000 in wrapped $20 bills have been stolen, stop that man.' Id. The alleged robber was not apprehended. See Complaint Paragraph 20. [The brief here cites to the filing in the federal court system which denied relief due to available of the state courts to decide such matters...'The plaintiff's appeal to the Curt of Appeals for the Second Circuit was denied, 66 F.3d 309 (2nd Cir. 1995), and the Supreme Court of the United States denied certiorari, ____U.S. ____, 116 S.Ct. 776, 133 L.Ed.2d 728 (1996).

ARGUMENT. I. PLAINTIFF'S RICO COUNT (COUNT ONE) SHOULD BE DISMISSED FOR FAILURE TO STATE A CAUSE OF ACTON.

In the first count of the Complaint, the plaintiff alleges that the defendants committed federal RICO violations. In particular, Moretti alleges that the defendants violated 18 U.S.C.A Sections 1341 (mail fraud), 1343 (wire fraud), 1344 (bank fraud), 1951 (interference with commerce); he also alleges that the defendants violated New York Penal Code Sections 120.05 (assault in the second degree). 155.05 (larceny), and 160.10 (robbery in the second degree). The plaintiff is not even remotely close to alleging a RICO violation.

In order to plead a civil RICO cause of action, a plaintiff has a two-fold burden:

> First, he must alleged that the defendant has violated the substantive RICO statute...In doing so, he must allege the existence of seven constituent elements: (1) that the defendant (2) through the commission of two or more acts (3) constituting a 'pattern' (4) of

> "racketeering activity' (5) directly or indirectly invests in. or maintains (6) an 'enterprise' (7) the activities of which affect interstate commerce. 18 U.S.C. Section 1962(a)-(c)(1976).

Moss v. Morgan Stanley Ind., 719 F.2d 5, 178 (2nd Cir. 1983). If this burden is met, the plaintiff must also 'allege hat he was 'injured in his business or property by reason of a violation of section 1962."Id. (citations omitted).

[Fn. 7 Moretti's allegations that John Doe and the Citibank Defendants kept a watchful eye on his banking habits and were lying in wait for him on August 8, 1994 are preposterous and contradicted by statements contained within the Complaint itself. Although the plaintiff states that his 'regular monthly deposits were known to the staff of the Citibank Bank,' Complaint, Paragraph 34, he also states that he made at least seven other visits to the same branch within three months on (sic - of) August 8, 1994...(Comment - Rent due on or before the first of the month is regularly deposited after collected within seven days of the first of the month.)]